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GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**HAWAII ISLAND BURIAL COUNCIL
MEETING MINUTES**

DATE: WEDNESDAY, JANUARY 18, 2006
TIME: 9:30 AM
PLACE: KONA OUTDOOR CIRCLE EDUCATIONAL CENTER
76-6280 Kuakini Highway
Kailua-Kona, HI 96740

ATTENDANCE:

HIBC MEMBERS: Leningrad Elarionoff, Kohala
Pele Hanoa, Ka'u
Roger Harris
Ku Kahakalau, Hamakua
Ulu Sherlock, Hilo
Cynthia Nazara, Kona
Kaleo Kualii, Kona
Charles Young
Roy Helbush
Dutchie Saffrey, Puna

ABSENT: Anna Cariaga, Ka'u
Ron Dela Cruz, Kohala
Jacqui Hoover

GUESTS:	Pam Mizuno	Curtis Tyler
	Bob Rechtman	Joanne Kahanamoku-Sterling
	Clarence A. Medeiros, Jr.	Usha Prasad
	Iwalani Arakaki	Coral Rasmussen
	Juanna Pi'iali'i	Nani Langridge
	Lunakanawai Hauani'o	Ron Cawthon
	Isaac Harp	Anthony Ako
	Jim Greenwell	
	Kiran Emler	
	David Atkin	
	Nami Ohtomo	
	Ruby McDonald	

I. OPENING REMARKS

HIBC Chair Charlie Young (Young) calls the meeting to order at 945a

Pele Hanoa (Hanoa) offers a pule.

Introduction of Hawai'i Island Burial Council members, Historic Preservation Division staff and the Deputy Attorney General.

II. HIBC MEETING MINUTES

A. APPROVAL OF THE DECEMBER 15, 2005 HIBC MEETING MINUTES

Page 4, paragraph 4- "Kona Field System" is misspelled.

A motion is made to approve the December 15, 2005 HIBC meeting minutes. (Elarionoff/Helbush)

Vote: All in Favor

III. BUSINESS

A. A BURIAL TREATMENT PLAN FOR FEATURE A OF SIHP SITE 11476 LOCATED ON TMK: 3-8-2-002:002 KEALAKEKUA AHUPUA'A, SOUTH KONA DISTRICT, ISLAND OF HAWAII

Information/Determination/Recommendation: Presentation by Rechtman Consulting, LLC. Council determination to recognize lineal and/or cultural descendants. Council determination to preserve in place or relocate previously identified Native Hawaiian burials. Council recommendations to the Department on the short and long term preservation measures detailed in the burial treatment plan.

Keola Lindsey (Lindsey) presents a memo dated January 18, 2006 to the members of the HIBC recommending Clarence A. Medeiros, Jr. be recognized as a cultural descendant to ancestral Native Hawaiian remains found within the ahupua'a of Kealahou.

Lindsey says that when Medeiros submitted his claim, he also submitted a claim for his children and grandchildren. The Department has requested that Medeiros' adult children submit their own claims. The genealogy Medeiros submitted is still on file and when the Department receives the children's claims, it should be a fairly quick review. When the review is completed, the genealogy documents Medeiros submitted will be returned.

Ku Kahakalau (Kahakalau) says that we must thank the descendants who go through this process. It takes time to get the paperwork together and it often involves taking off from work. The process is getting better, so mahalo to those who take the time.

Ulu Sherlock (Sherlock) says last month Leanne Leslie also indicated she would be applying for descendency recognition.

Lindsey says Leanne Leslie did express an interest, and she did testify on this agenda item at last month's meeting, but the Department has not received her paperwork. She was given the opportunity to review the burial treatment plan, and provided her comments on the plan.

A motion is made to accept staff's recommendation and recognize Clarence A. Medeiros, Jr. as a cultural descendant to ancestral Native Hawaiian remains found within the ahupua'a of Kealakekua. (Helbush/Kahakalau)

Vote: All in Favor

Bob Rechtman (Rechtman) gives an overview of the burial treatment plan. The plan was presented last month. Last month there was a question on where the road depicted on page 4 of the plan leads to. The road was designed in part to control flooding. It could not just terminate, so it leads off of the property to a area down below. This road also ties into an active ranch road.

The plan proposes preservation in place. IARII conducted the archaeological inventory survey, and identified one burial site in a platform feature. The proposal is for a 20-foot preservation buffer measured from the edge of the feature. Any vegetation that may cause damage to the feature will be removed. Page 9 of the plan shows the preservation area. Each corner of the preservation area will be located by an indiscreet metal post. The 20 foot preservation boundary will be delineated by a ti-leaf planting. Proposed language for signage is on page 8. Access to the burial site will be allowed to recognized lineal and/or cultural descendants. A 10 foot wide access easement created across lot 19 of the subdivision.

There will be a monitor on site during the construction of the roadways to ensure that the site is protected. Orange construction fencing will delineate the permanent buffer and will be erected prior to construction starting.

Young asks if the developer will be responsible for putting up the permanent buffer.

Rechtman says yes.

Kahakalau is concerned about how far away from the 20 foot buffer a house could be built. What if the new owner decides to build right next to the buffer. Kahakalau asks if there is a possibility that a set back from the permanent buffer could be established.

Young says that would be a "no build" setback around the buffer so the foundation for a house would not be right on the 20 foot buffer. This has been done in the past. Each individual lot owner will be coming up with their own plans. Young wonders that when this new lot owner has an idea of what they want to do, if the HIBC could be involved in making some type of recommendation to that owner.

Leningrad Elarionoff (Elarionoff) says depending on the size of the lot, the County also requires building setbacks.

Dutchie Saffrey (Saffrey) says that the 20 foot buffer with an additional 10 foot no build setback sounds fair.

Saffrey says that if this is a gated community, the names of the descendants should be kept at the gate to ensure that they are provided access.

Rechtman says typically if there is a guard at the gate, the guards have a list of the descendants. If it is an unmanned gate, the descendants are provided the pass code.

Elarionoff asks about the data recovery.

Maryanne Maigret (Maigret) says that was no data recovery that affects the burial site specifically. The data recovery on this property in general was focused on the farming features, the kuaiwi and terraces and some of the c shapes to try and put together a dating sequence for the construction of the Kona Field System. The work on the Kona Field System here is second only to the work at the Amy Greenwell Garden.

Elarionoff says access will be provided to recognized descendants. Practically speaking, what happens when a recognized descendant goes to visit the site with his first cousin who just came back from the mainland. This is something to think about.

Clarence Medeiros (Medeiros) would like the plan to be revised to show that he has been formally recognized as a descendant. Someday, that may be his ticket to gain access to visit the site.

Young asks Medeiros if he has reviewed the plan.

Medeiros says he consulted with Rechtman several times.

Kaleo Kualii'i (Kualii'i) asks if Medeiros is comfortable with the 20 foot buffer and an additional 10 foot no build setback. We are talking about having no construction within 30 feet of this site.

Isaac Harp (Harp) does not feel a ti leaf buffer is permanent enough, he would like to see a rock wall so the burial is protected forever. Harp would also like to see a 15 foot set back instead of 10.

A motion is made to preserve the burial within site 11476 feature A in place. (Kahakalau/Saffrey)

Vote: All in Favor

Kahakalau asks Medeiros about his mana'o on constructing a rock wall at the 20 foot buffer and planting the ti leaf at the 10 foot setback.

Medeiros says the reason he never proposed a rock wall in this area is that he used to hunt makai of this area, and they never used to see any walls. The area was chain dragged before him, so maybe there were.

Kualii'i asks Medeiros if a rock wall would be ok.

Medeiros says that would be acceptable.

Young asks if the recommendation for the rock wall is accepted, will it be built before construction starts.

Rechtman says if the wall happens, typically what happens is that the wall is built before construction happens. Right now, the proposal is to have a monitor on site and the fencing up at the permanent buffer when construction starts.

Cynthia Nazara (Nazara) says if it does come to a rock wall, Medeiros should be involved with designing it.

Elarionoff says the problem with the wall will be that over time it will require maintenance and repair over time. The ti leaf will be much easier in the long term.

A motion is made to approve the proposed 20 foot permanent buffer with a recommendation that an additional 10 foot no build setback where no part of structures will be built. (Saffrey/Kahakalau)

Vote: All in Favor

A motion is made that the descendants continue consultations with the developer regarding the delineation of the 20 foot buffer by a rock wall. (Saffrey/Sherlock)

Vote: All in Favor

A motion is made to close this agenda item. (Helbush/Elarionoff)

Vote: All in Favor

B. FINAL PRESERVATION PLAN FOR SITE 2009- HAUKALUA HEIAU LOCATED AT LA'ALOA BEACH PARK, LA'ALOA AHUPUA'A, NORTH KONA DISTRICT, HAWAI'I ISLAND [TMK (3) 7-7-10:36]

Information/Determination/Recommendation: Council determination to recognize lineal and or cultural descendants. Council recommendations to the Department on the revised burial treatment plan.

Lindsey presents a memo dated January 18, 2006 to the members of the HIBC recommending that Iwalani Kamaka Ma'a Arakaki be recognized as a cultural descendant to ancestral Native Hawaiian remains found within the ahupua'a of La'aloa.

Saffrey says there is mention of a lineal descent claim. Saffrey asks if the Department will continue the research to verify the lineal claim.

Lindsey says additional research is pending the receipt of additional information.

Saffrey asks if the Department will continue the research or is it up to the claimant to submit the information.

Kahakalau says this is an unidentified burial.

Lindsey says Arakaki is lineal to the individuals listed in the memo and her descent from those individuals confirmed her cultural connection to the ahupua'a. The potential is there for additional research, but all the information generated thus far does not identify the person buried in this Heiau.

A motion is made to accept staff's recommendation and recognize Iwalani Kamaka Ma'a Arakaki as a cultural descendant to unidentified ancestral Native Hawaiian remains found within the ahupua'a of La'aloa. (Sherlock/Kahakalau)

Vote: All in Favor

Kahakalau asks about Thomas Hanuna and the Luhiau claim.

Lindsey says last month the Department provided a recommendation on the Luhiau claim and the Department never received a claim from Thomas Hanuna.

Ruby McDonald (McDonald) asks if the Department is continuing a search for descendants even after the HIBC has made it's decision.

Lindsey says the Department is continuing to accept descendancy claims.

McDonald says she has a problem with how long it is taking for the Department to review the claims. McDonald says she submitted hers two years ago, and then it got lost, so she resubmitted.

Ron Cawthon (Cawthon) refers to a letter dated May 11, 2004 from Mayor Harry Kim. The letter details the construction of a parking lot at La'aloa Beach Park and the failure to erect fencing prior to the construction of the parking lot and the failure to complete archaeological and preservation plans. Cawthon says they are frustrated. Cawthon says the La'aloa 'Ohana agree to the recommendations made by the HIBC on April 27, 2005.

Only the HIBC members who are Hawaiian religious practitioners can truly understand the dynamics here. This is not about iwi, this about religious freedom.

Kupuna have it on the record that there are other burials at La'aloa that have never been investigated.

Elarionoff asks if everyone agrees on the definition of religious practitioner.

Cawthon says he is not sure.

Sherlock asks if there is a difference between Hawaiian religious practice and Christianity. Sherlock says she was raised to respect the practices of the kupuna as a Christian.

Cawthon says by his definition, the two terms are very different.

Sherlock says that Cawthon's testimony seemed to be directed at the members of the HIBC who he said are not Hawaiian religious practitioners. Sherlock asks Cawthon for his definition of a Hawaiian religious practitioner.

Cawthon says he has listened to Kahakalau's and Hanoa's mana'o and it seems they are a little bit more akamai of practices.

Kahakalau asks Cawthon what the 'Ohana's position on the burial treatment plan is.

Cawthon says everything other than page 7, removing the lele, is fine. Without all stakeholders agreeing to removal of the lele, the La'aloa 'Ohana is adamantly opposed to the removal or relocation.

Anthony Ako (Ako) says all the Opunui are connected by blood. Ako distributes a letter dated January 20, 2006 from his wife Valerie Luhiau Ako. The genealogist that researched his wife's family looked at the wrong line. The genealogist called and apologized for looking at the wrong line. The genealogist never looked at the Puhi line. This is all due to the lack of information provided to the genealogist by the Historic Preservation Division.

It is the families that really know the genealogy. There are secrets within families that are kept for many reasons. Ako says his family has never gotten a written report from the genealogist.

If there are iwi within this site, Ako was raised that you cannot walk on it. It is not just Hawaiians the respect sites like this. Catholics consecrate church grounds with the remains of a saint.

Young says it appears that the one issue that is still a point of contention is the removal of the lele. The HIBC recommended in April that the lele should not be removed without an agreement among all parties. Whether Ako's family has been formally recognized or not, they still have a voice. Young asks Ako what he feels about the lele.

Ako says he cannot speak for his entire family. All you need to do is look at the different sites.

Young asks other than the lele, is there anything in the plan that Ako's family would disagree with.

Ako says not that he knows of.

Kahakalau refers to the letter from Valerie Luhiau Ako. The letters mentioned the iwi in the heiau. Kahakalau asks if Luhiau Ako would be able to go to Haukalua Heiau and identify where the burials are.

Ako says Kahakalau would have to talk to his wife.

Kahakalau says the reason she asks is that if we could identify where the burials are, walking on them could be avoided.

Elarionoff says the letter refers to Haakalua Heiau.

Kahakalau says that is just another variation of the name of the Heiau.

Saffrey says Ako has come before the Council to express his concerns regarding the research the Department has done on his family. Saffrey asks Lindsey if the Department is going to conduct additional research.

Lindsey says he will follow up on that. The memo presented to the HIBC last month recommended deferral pending receipt of additional information but based on Ako's testimony today, it sounds like there are concerns that the wrong family line was researched.

Ako says his wife did get a letter from the Administrator of Historic Preservation discrediting his wife based on incomplete findings.

Saffrey says she would like to bring closure to this.

Ako says so would he. The problem is that the wrong family line was researched.

Nazara asks if the Department's genealogist ever researched the correct line.

Ako says no. The two names are Opunui and Puhi. They never completed Opunui and they never touched Puhi.

Nazara asks if Ako knows that for a fact.

Ako says he knows it is a fact.

Nazara asks if he tried to correct it.

Ako says they have been stonewalled.

Hanoa asks if anyone has replaced Kana'i Kapeliela.

Lindsey says not within the Division. The State contracts the work out.

Saffrey says if the wrong name was researched, what happens now.

Lindsey says if the wrong name was researched, it would be inherent on the Department to research the correct line.

Sherlock asks if this has happened.

Lindsey does not know.

Young says the HIBC clearly passed a motion last month that the descendant reviews be expedited. The HIBC did not get that, and now there are questions whether the HIBC will ever get those recommendations.

Young asks Lindsey if the State will continue contracting genealogy reviews.

Lindsey says he would assume that it will continue until the State either trains someone on staff to meet the criteria of a genealogy expert or hires someone with that expertise.

Young says the HIBC is now in a position to make recommendations on the revised burial treatment plan or to accept the plan as it is with the proposal to remove the lele.

Saffrey says she is concerned because of the unresolved descendant issues. The HIBC is here to listen to and make decisions on behalf of the descendants. Saffrey feels there is an injustice here in the failure of the Department to review the descendant applications.

Lindsey says the HIBC can defer to the recommendations made by the previous Council detailed in the April 27, 2005 letter, make new recommendations, or defer recommendations entirely.

Sherlock asks Deputy AG Julie China (China) if the HIBC can approve the revised burial treatment plan and leave the descendancy issue open.

China says yes, the HIBC can approve the plan and recommend the Department continue reviewing the descendancy claims to provide a recommendation to the HIBC.

Sherlock asks Ako if his wife will be able to attend future meetings.

Ako says if the HIBC wants her to be here, she can be here.

Maigret says that long term preservation plan and management of the Park are at a standstill until issues regarding the Heiau are resolved.

Young says if the clock has expired, shouldn't the Department have made a decision.

Lindsey says in this case, the Department has always wanted to hear from the recognized descendants prior to making a final decision on this matter and that is where the HIBC comes in because the HIBC is the recognizing body for descendants.

Young would like the Department to provide a full accounting of the Luhiau claim. The Council has already made recommendations on the lele, and Young is not sure if this Council should take any action on the issue of the lele.

Saffrey would like to allow the County to do what they need to do.

Kahakalau says the revised plan is good, it addressed many of the concerns that were expressed. In particular, the removal of a portion of the parking lot was a big one. The signage was revised to reflect on going cultural practices. The HIBC should make a recommendation that all the interested parties continue discussions on the lele until a consensus is reached.

McDonald asks what revisions were made to the plan.

Lindsey says the revised plan incorporates the seven recommendations made at the April 2005 meeting with the exception of the lele not being removed without consensus. The revised plan still proposes removal of the lele.

McDonald says she is a descendant, she does not care whether the State says so or not. The lele that is there now is irrelevant, she does not want people coming into the area and disturbing the site.

Elarionoff says he understands why there is confusion. We can't even figure out what the correct name of this heiau is. Elarionoff thinks that there are some that are trying to make this heiau into something it was not meant to be.

McDonald says Hawaiian culture is supposed to be dynamic. Growing up in this area, she understood there were heiau here. Her concern at this point is to leave the iwi alone.

A motion is made to approve the revised burial treatment for plan for Site 2009, Haukalua Heiau. (Kahakalau/Saffrey)

Vote: All in Favor

A motion is made to recommend that all interested parties including descendants, cultural practitioners and the County of Hawai'i continue to work on a cultural management plan for Haukalua Heiau which includes addressing the removal of the lele. (Kahakalau/Sherlock)

Vote: All in Favor

A motion is made that any inadvertent finds at La'aloa Beach Park be treated as previously known. (Saffrey/Kahakalau)

Vote: All in Favor

A motion is made to go into Executive Session to discuss the HIBC's rights, privileges, duties and responsibilities with the Deputy AG. (Kuali'iSaffrey)

Vote: All in Favor

The HIBC goes into Executive Session at 1235p.

A motion is made to end the Executive Session. (Kahakalau/Sherlock)

Vote: All in Favor

The meeting is opened at 109p.

A motion is made to recess for lunch. (Kahakalau/Nazara)

Vote: All in Favor

The HIBC meeting is recessed at 110p. Chair Young left the meeting during the recess.

The HIBC reconvenes at 150p. Vice-Chair Sherlock reconvened the meeting and noted that the Chair had to leave. HIBC member Roger Harris joined the meeting.

C. FINAL PRESERVATION PLAN FOR AN AREA IN THE AHUPUA'A OF HONOKOHAU I (NUI) AND II (IKI), KONA DISTRICT, ISLAND OF HAWAI'I [TMK (3) 7-4-008:013, (3)7-4-08:030, (3) 7-4-08:074]

Information/Recommendation: SHPD staff will update the HIBC on the ongoing discussions and consultations regarding approval of a final preservation plan for previously identified Native Hawaiian burials located on the subject property. Discussion on the proposed Kamanu Street Connection alignment which is currently designed to cross over

the surface of site 18117. Council recommendations to the Department on proposed Kamanu Street Connection alignment.

Lindsey provides a summary. The timeframe for the Department to approve the final burial preservation plan for the five burial sites on this property expires today. The majority of the short and long term preservation details were addressed in the burial treatment plan submitted to the Council and a memo submitted by the developer at the October HIBC meeting.

The one major issue that remains unresolved is the Kamanu Street Extension which is proposed to cross the surface on the eastern portion of Site 18117. The Department was made aware of concerns regarding that proposed alignment. The developer's engineers went back out and took a look at what could be done. Five alternative alignments were identified, but it was determined that these alternatives did not meet National and County of Hawai'i safety standards for road design. The only acceptable alignment for the road at this time is the original alignment proposed in the burial treatment plan.

The issue has been discussed at descendant meetings, including one in December. Lindsey feels it would be accurate to say that there is not a consensus among the descendant group.

Sherlock says it sounds like there are still concerns from the descendants.

Lindsey says there are descendants here today that will share their thoughts and the Department is still looking for that today. The Council does have the ability to make recommendations to the overall treatment of all the sites on the property, but the Department has identified the Kamanu Street issue as the one major unresolved issue.

James Greenwell (Greenwell) says he is the President of West Hawai'i Business Park, LLC. Following the October HIBC meeting, Greenwell felt there was a need to talk some more with the descendants, and they did their best to notify the descendants and organized and held a meeting in December. Greenwell acknowledges that there is a wide range of thoughts on the Kamanu Street issue. Some descendants may never be comfortable with the idea of Kamanu Street crossing the cave, and Greenwell respects that. Other descendants may have come away from the meetings with an understanding that all options have been explored and that there are safety concerns regarding any alternative alignments.

Roger Harris (Harris) asks how many descendants came to the December meeting.

Greenwell says about 20.

Saffrey asks if there was a vote.

Issac Harp (Harp) says four were against the alignment, the rest were for it with the condition that the portion of the tube where the street will cross is reinforced.

Greenwell says the 16 that were for it had reservations. Everyone wishes there was away around the site.

Harp says everyone had safety concerns. Another factor was the distance of the road from the burial. Harp feels that nobody is really comfortable with the road going over the tube, but acknowledge that the developer's engineers could not find any acceptable alternatives.

Iwalani Arakaki (Arakaki) says she is one who opposes the road going over the tube.

Curtis Tyler (Tyler) says the construction of this road is a condition that was imposed by the Hawai'i County Council. This was done in consideration of the traffic situation and public safety. The County Council imposed the condition without the knowledge that there were any burials in the area. When the burial issue came up, there have been a number of consultations. There are significant topographic constraints involved with moving this road alignment.

Tyler recalls that at the December HIBC meeting there were concerns expressed that some of the descendants who lived on outer islands were not able to attend the consultation meetings.

This is a difficult decision. The HIBC has a tradition of treating the entire extent of a burial cave as the site. It sounds like the parties involved have made a best effort.

Harris asks Tyler if he would have a recommendation.

Tyler says he has heard that reinforcing the portion of the road that will cross the cave is one solution. From a cultural perspective, this may not be pono. We have to consider the living, and there has to be a way to mitigate the situation.

Hanoa says with all this development coming up, what are we going to do when we find caves. Are we going to keep building bridges and going over caves. There has to be a way to go around the caves. There are many things to look at.

Tyler agrees that there are many caves in Kona. If we are going to say that we are not going to build over any caves, we are never going to have interconnecting roads, and that is going to be a long term problem. We need to set aside road corridors that are checked to make sure that there are no sensitive cultural resources.

Harp says the descendants on neighbor islands were given the invitation to attend the December meeting, and the developer offered to assist in getting them here.

When we talk about reinforcing the road, it is going to be in a way that is not noticeable when you drive over it. When we say bridge, it will not be an elevated bridge. We want this to look as natural as possible. Harp feels that every way to go around the site imaginable has been explored.

Greenwell says he is not sure what the final design will be, but assures the Council that every effort will be made to reinforce the section to protect the integrity of the cave.

Elarionoff says he appreciates the efforts the developer has gone through to respect the wishes of the cultural descendants to preserve the site in place. Elarionoff suggests that in the future research be done to find out who is buried in the site and if a specific family is identified, their wishes could be followed.

Hauani'o says we need to be cautious. The 'au'au, the spirit can never be moved.

Harp says that the road is about 130 feet away from the burial, so it is not going over the burial itself.

Harp would like the HIBC to make a recommendation that any inadvertent finds be treated as previously identified so the descendants can maintain some control.

Lindsey says the Council can make that recommendation, but there will be problems with the definitions of the two terms and how those definitions relate to the statutes the Department is required to follow. Whether the discovery is treated as previously identified or inadvertent, the descendants still have a protected right to be involved. Lindsey suggests a recommendation that any inadvertent finds be treated in a manner consistent or similar to the previously identified finds.

A motion is made to approve the proposed Kamanu Street Extension alignment as proposed in the burial treatment plan with the condition that the roadbed is structurally reinforced. (Saffrey/Harris)

Harris says if this motion passes, we are voting to recommend to the Department that the burial treatment plan be approved with the condition that the Kamanu Street roadbed be reinforced.

Kahakalau says she reads today's agenda to read that the Council will vote on recommendations on the proposed Kamanu Street alignment, the agenda does not have a Council recommendation on the burial treatment plan.

China says it is her understanding that the Council has voted to approve everything in the plan except the Kamanu Street Extension. By approving this final issue, which is one the agenda the Council is basically approving the plan.

Lindsey says the reference in the motion to the burial treatment plan is just identifying the document where the proposed Kamanu Street alignment that is being approved is actually depicted.

Elarionoff asks about the design of the road section that will cross the cave.

Bruce McClure (McClure) says that the reinforced concrete slab will take the load out to footings on the end.

Kahakalau appreciates the efforts of the developer and the descendants working together. This is setting a dangerous precedent for caves in Kona, and that is a serious concern. Kahakalau will vote against the motion, because of the precedent it will set and the history of the HIBC treating the entire cave as the site.

Elarionoff says on the other hand, a precedent has been set for developer's to go to the extent that Greenwell has gone to as far as consultations and exploring alternatives.

Harris feels there are examples both ways regarding the treatment of caves sites. Harris does not feel there has always been a policy by the HIBC to treat the entire cave as the site that must be preserved. Harris recalls a case where there was a cave with a burial, and a section 80 feet from the burial was walled up and collapsed. This case illustrates how these issues must be addressed. We do have to consider the living and respect the dead.

Saffrey thanks Greenwell for working with the descendants and holding the consultation meetings and giving the descendants the opportunity to attend.

**Vote: 8 ayes (Hanoa, Kualii, Saffrey, Nazara, Sherlock, Harris, Helbush, Elarionoff)
1 nay (Kahakalau)**

The motion carries.

A motion is made to treat any inadvertent finds as previously identified. (Saffrey/Kahakalau)

Harris says this is a very dangerous thing to do. The law is the law. When there are inadvertents, the Department consults with the descendants and all interested parties and makes the decision. The Council can make recommendations that every option for preservation in place be explored and that if it is a relocation situation, that the Council be consulted. Harris feels that if these motions to treat the inadvertents as previously identified are made and passed, it dilutes the Councils power.

China says the Council can make a recommendation, but the Department may not be able to follow it because of what the rules require.

Sherlock agrees that it is a recommendation, and the decision is up to the Department.

Harp says the descendants want more control over the inadvertent finds rather than leaving it to an illegitimate government. He is not asking the Council to change the law.

Lindsey says it sounds like Harp's desire is to keep the descendants involved with the process. The descendants are an important part of either process, whether it is inadvertent or previously identified. If the intent of the motion is that any inadvertent finds be preserved in place, Lindsey suggests that the Council recommend that any inadvertents be treated in a manner consistent or similar to the previously identified burials on the property.

Saffrey withdraws her motion.

Harp says the descendants want the same level of input to the inadvertents as they have had in the burial treatment plan process.

Lindsey says that if there is an inadvertent find when work starts, the Department has the descendant list, and is required to consult with the descendants.

Harp says the descendants support this motion.

Greenwell says they have talked about this at descendant meetings. Greenwell has heard different opinions on the treatment of inadvertents. Greenwell says he has to work within the law.

Hauani'o says we are talking about whether or not we are going to abide by the State Constitution that says the State will protect traditional and customary rights versus the State may protect traditional and customary rights.

Kahakalau wants to make sure that if there is an inadvertent find, that the Department will work with the descendants to come to an agreement on how that site will be treated.

Lindsey says the Department is required to work with known descendants when there are inadvertent finds.

Harp wants to ensure there is a sufficient level of discussion and consultation before a decision is made.

Harris says he is very reluctant to make this kind of recommendation. The Council could recommend ways for the State to deal with it.

A motion is made that any inadvertent finds be preserved in place and the HIBC be involved with consultations with the descendants. (Kahakalau/Saffrey)

Harris says everyone has to understand that the law is the law and if there is an inadvertent, the Department is going to deal with it.

Kuali'i feels that this motion reaffirms that the Division is going to consult with the descendants and the Council.

**Vote: 8 ayes (Hanoa, Kuali'i, Saffrey, Nazara, Sherlock, Helbush, Elarionoff, Kahakalau)
1 nay (Harris)**

The motion carries.

D. PROPOSED KUAKINI HIGHWAY IMPROVEMENTS PROJECT, PHASE 2, HUALALAI ROAD TO ALI'I HIGHWAY, KAILUA-KONA, ISLAND OF HAWAI'I. HISTORIC AND CULTURAL REASOURCES CONSULTATION.

Information/Recommendation: Informational presentation by Parsons Brinckerhoff Quade & Douglas, INC. HIBC recommendations to the Department on the proposed project.

Nami Ohtomo (Ohtomo) gives an overview of the Kuakini Highway Improvement Project. With her today are Coral Rasmussen, David Atkins and Ursha Prasad She is here today to give the Council some preliminary information. The real objective of their presentation today is to get the Council's thoughts on how they can improve their project.

The project is to widen the Kuakini Highway from two lanes to four lanes with other improvements from Hualalai Road to an intersection with the proposed Ali'i Highway.

Some archaeological sites have been identified within their limits of construction.

They are preparing a draft environmental assessment for this project, and a lot more detail will be contained within that document.

Coral Rasmussen (Rasmussen) introduces herself to the Council; she is overseeing the archaeological work related to the project.

Lindsey says to clarify for the Council, because this project involves Federal money, section 106 of the National Historic Preservation Act will be in effect. This is just a preliminary presentation.

Sherlock says the section 106 consultation should have been indicated on the agenda.

Tyler expresses concern whether this is a section 106 consultation.

Ohtomo says this is a Federal project with Federal money. The reason they are here today is to provide the Council with the opportunity to comment on their project. The intent of the presentation is just to provide information.

China says this is an information presentation only, as it is noted in the agenda. If the presenters want to seek consultations under section 106, it will have to be put on the agenda as such.

Rasmussen says they have conducted a preliminary archaeological and cultural survey of a 200 foot wide corridor. 20 archaeological sites were identified in the survey, many of them were already identified by previous surveys. They have been told that the Laniakea Cave crosses under the Kuakini Highway. Other sites include the Kona Field System, the Kuakini Wall, boundary and ranching walls, Site 5608, and other archaeological features.

Usha Prasad (Prasad) wanted to speak with kupuna and others from the area to see if there were cultural sites or practices going on in the area. At least three individuals have told her there may be burials in the area.

Rasmussen one burial they know about is near the Coconut Groove Marketplace.

Ohtomo has stressed to the engineers to avoid that site.

Generally, they are just looking for suggestions from the Council at this point.

Tyler says there is a lot more information out there. The next time this is on the agenda, and if it is correctly noticed, there is a potential that a lot more people will come out and share what they know.

Ohtomo says they are trying to make a good faith effort to contact people who know about this area. They are also looking for suggestions from the Council for people who should be contacted.

Sherlock says if they want to come back next month, the matter can be noticed on the agenda properly, the Council will have time to review all the information and be in a better position to make recommendations and or suggestions.

McDonald says there are burials in Laniakea Cave.

Tyler asks if traditional cultural properties are included in this process.

Ohtomo says they are. They still have to identify the area of potential effect.

Kahakalau says she does not see the Laniakea Cave on the map that was distributed.

Rasmussen says the cave goes below the Kuakini Highway and they are not exactly sure where it goes.

Ohtomo says they do not believe that the depth of the excavation for this project will be that deep.

***A motion is made to defer the rest of the January 18, 2006 HIBC agenda.
(Elarionoff/Saffrey/)***

Vote: All in Favor

The HIBC meeting is adjourned at 419p.